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Remarks

Claims 5 and 14 are amended. Claims 1, 2, 4 to 12, 14 and 15 are pending in this application of which claims 1 and 14 are in independent form.

Claims 5 and 10 were rejected under 35 USC 112, second paragraph, as being indefinite for the reason set forth on page 2 of the action. The Examiner is correct in that claim 5 should depend from claim 1 and claim 5 is so amended herein so the claims should now be definite as required by the statute.

Independent claims 1 and 14 were rejected under 35 USC 103(a) as being unpatentable over Shuman et al in view of Artis et al and further in view of Bellinger et al. The following will show that claims 1 and 14 patentably distinguish the applicant's invention over this combination of references.

In the remarks of the amendment filed on January 6, 2006, the applicant has shown that the feature of claim 1, namely:

"disabling said limiting of said speed
when an operator-controlled element is
actuated beyond a pregiven threshold
angle;"

is not disclosed in Shuman et al as noted on page 3 of the action.

Neither Shuman et al nor Artis et al show the last feature of claim 1, namely:

"carrying out an increase of the speed
of said vehicle above the maximum
permissible speed in the form of a ramp
function or iteratively in a pregiven step
width."

as noted in the action also on page 3 thereof.

In the present action, Bellinger et al is relied upon to fill the void left by the combination of Shuman et al and Artis et al.

Bellinger et al is directed to a system for controlling the vehicle acceleration wherein the vehicle acceleration is determined. In addition, the quantity of fuel to be injected is controlled. The quantity of fuel to be injected is dependent upon in which gear the transmission is and upon a vehicle acceleration signal. The vehicle acceleration signal controls the vehicle acceleration by limiting the fuel injection whenever the vehicle acceleration exceeds a pregiven vehicle acceleration limit function. In one embodiment, such a vehicle acceleration limiting is carried out only for vehicle speeds above a threshold value. In each case, the limitation of the acceleration is carried out via an accelerator pedal or the like preferably only under a manual control of the fuel injection.

As shown in FIG. 2 of Bellinger et al, an increasing step function is shown with respect to curve 66. A first constant vehicle acceleration limit 66_1 is defined between the vehicle speeds VS_5 and VS_6 . A second higher constant vehicle acceleration limit 66_2 is defined between vehicle speeds VS_6 and VS_7 . A third higher constant vehicle acceleration limit 66_3 is defined between vehicle speeds VS_7 and VS_8 . The instantaneous vehicle acceleration is compared to the constant vehicle acceleration limits 66_1 , 66_2 and 66_3 stored for the respective vehicle speeds. When the vehicle acceleration exceeds the corresponding constant vehicle acceleration limit, then the fuel metering is limited and

the vehicle acceleration is thereby reduced as described at column 7, line 61, to column 8, line 25, of this reference.

In contrast to Bellinger et al, independent claims 1 and 14 are not concerned with the limiting of the vehicle speed for saving fuel; rather, the subject matter of these claims is directed to carrying out an increase of the speed of the vehicle above the maximum permissible speed in the form of a ramp function or iteratively in a pregiven step width. This means that the speed above the maximum permissible speed is increased in a precisely defined manner, namely, either in the form of a ramp function or iteratively in a pregiven step width. Thus, it can be seen that claims 1 and 14 concern a shaping or fashioning of the speed increase. In contrast, in Bellinger et al, no form is pregiven for a speed increase. The step functions of FIG. 2 of Bellinger et al do not function to change the speed in accordance with this step functions. Accordingly, the curve 66 of FIG. 2 of this reference does not serve to increase the speed in accordance with the different acceleration values (66_1 , 66_2 , 66_3). Rather, these step functions serve as a reference function in order to reduce accelerations above the limit values (66_1 , 66_2 , 66_3). The limit values (66_1 , 66_2 , 66_3) thereby only define threshold values at which the fuel metering is limited when these threshold values are exceeded by the vehicle acceleration. The threshold values (66_1 , 66_2 , 66_3) do not present, however, a predefined function in accordance with which the speed of the vehicle is increased above a maximum permissible speed.

In the above, it can be seen that Bellinger et al is really

not concerned with the actuation of an operator-controlled element beyond a pregiven threshold angle in order to limit the acceleration in the manner shown in FIG. 2 of this reference. Rather, only the vehicle speed matters for the application of the limit function in the subject matter of Bellinger et al. Accordingly, the vehicle speeds VS_5 , VS_6 , VS_7 and VS_8 are reached with respective accelerator pedal angles in dependence upon the slope of the roadway, that is, whether, for example, the vehicle is traveling uphill or downhill.

Applicant also calls attention to the fact that the objective in Bellinger et al is completely different from the objective achieved by applicant's claims 1 and 14. While Bellinger et al is concerned with introducing a limiting of the vehicle acceleration above a predetermined vehicle speed in order to save fuel, applicant's claims 1 and 14 are directed to disabling a limiting of the speed of the vehicle above a pregiven threshold angle of the operator-controlled element and to increase the speed above the permissible limit value. The raising of the speed beyond the maximum permissible value in the form of a ramp function or iteratively in pregiven step widths therefore ensures that the wanted speed above the maximum permissible is not reached too abruptly because of overriding the accelerator pedal whereby the vehicle reaction remains controllable for the driver. This has nothing to do with saving fuel. Indeed, and in contrast, the fuel consumption is even further increased by exceeding the maximum permissible speed because of an override of the accelerator pedal.

In view of the foregoing, applicant respectfully submits

that the method step of:

"carrying out an increase of the speed
of said vehicle above the maximum
permissible speed in the form of a ramp
function or iteratively in a pregiven step
width."

places the his invention well beyond the reach of the person
exercising only ordinary skill so that the void left by
Shuman et al and Artis et al cannot be filled by Bellinger et al.

In view of the above, claim 1 should now be allowable as
should independent claim 14 which parallels claim 1 in an
apparatus context. The remaining claims 2, 4 to 12 and 15 are
all dependent from one of the two independent claims so that they
too should now be allowable.

Reconsideration of this application is earnestly solicited.

Respectfully submitted,



Walter Ottesen
Reg. No. 25,544

Walter Ottesen
Patent Attorney
P.O. Box 4026
Gaithersburg, Maryland 20885-4026

Phone: (301) 869-8950

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